AN ACT

To repeal sections 286.020, 287.020, 287.067, 287.390, 287.510, 287.610, 287.615, 287.800, and 287.957, RSMo, and to enact in lieu thereof eleven new sections relating to workers' compensation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 286.020, 287.020, 287.067, 287.390, 287.510, 287.610, 287.615, 287.800, and 287.957, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 286.020, 287.020, 287.067, 287.390, 287.510, 287.610, 287.615, 287.800, 287.803, 287.805, and 287.957, RSMo, to read as follows:

286.020. The term of office of each member of the commission shall be six years except that when first constituted one member shall be appointed for two years, one for four years and one for six years, and thereafter all vacancies shall be filled as they occur. The terms of office of the first members of the commission shall begin on the date of their appointment which shall be within thirty days after the effective date of this chapter. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed, shall be appointed by the governor, by and with the advice and consent of the senate, for the remainder

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in boldface type in the above law is proposed language.

of such term. Every commission member appointed to serve either as a permanent, acting, temporary, interim, or legislative recess appointment shall appear for confirmation before the senate within thirty days after the senate next convenes for regular session. Any member appointed or serving the labor and industrial relations commission without senate confirmation after that time period shall immediately resign from the commission. The governor may remove any member of the commission, after notice and hearing, for gross inefficiency, mental or physical incapacity, neglect of duties, malfeasance, misfeasance or nonfeasance in office, incompetence or for any offense involving moral turpitude or oppression in office.

287.020. 1. The word "employee" as used in this chapter shall be construed to mean every person in the service of any employer, as defined in this chapter, under any contract of hire, express or implied, oral or written, or under any appointment or election, including executive officers of corporations. Any reference to any employee who has been injured shall, when the employee is dead, also include his dependents, and other persons to whom compensation may be payable. The word "employee" shall also include all minors who work for an employer, whether or not such minors are employed in violation of law, and all such minors are hereby made of full age for all purposes under, in connection with, or arising out of this chapter. The word "employee" shall not include an individual who is the owner and operator of a

motor vehicle which is leased or contracted with a driver to a for-hire common or contract motor vehicle carrier operating within a commercial zone as defined in section 390.020 or 390.041, RSMo, or operating under a certificate issued by the motor carrier and railroad safety division of the department of economic development or by the interstate commerce commission.

2. The word "accident" as used in this chapter shall**[**, unless a different meaning is clearly indicated by the context, be construed to**]** mean an unexpected **[**or unforeseen identifiable event or series of events happening suddenly and violently, with or without human fault, and**]** traumatic event or unusual strain identifiable by time and place of occurrence producing at the time objective symptoms of an injury**[**. An injury is compensable if it is clearly work related. An injury is clearly work related if work was a substantial factor in the cause of the resulting medical condition or disability. An injury is not compensable merely because work was a triggering or precipitating factor**]** caused by a specific event during a single work shift.

3. (1) In this chapter the term "injury" is hereby defined to be an injury which has arisen out of and in the course of employment. The injury must be incidental to and not independent of the relation of employer and employee. An injury by accident is compensable only if the accident was the dominant factor in causing the resulting medical condition. Ordinary, gradual deterioration or progressive degeneration of the body caused by

aging shall not be compensable[, except where the deterioration or degeneration follows as an incident of employment].

(2) Missouri does not apply the positional risk analysis or positional risk doctrine. An injury shall be deemed to arise out of and in the course of the employment only if all of the following are met:

(a) It is reasonably apparent, upon consideration of all the circumstances, that the [employment] accident is [a substantial] the dominant factor in causing the injury; and

(b) [It can be seen to have followed as a natural incident of the work; and

(c) It can be fairly traced to the employment as a proximate cause; and

(d)] It does not come from a hazard or risk unrelated to the employment to which workers would have been equally exposed outside of and unrelated to the employment in normal nonemployment life;

(3) This chapter shall not apply to personal health conditions of an employee that manifest themselves in the employment in which the accident is not the dominant factor in the resulting need for medical treatment.

(4) An injury resulting directly or indirectly from idiopathic causes is not compensable.

(5) "The term dominant factor" shall mean the accident is the prevailing factor in relation to any other factors

contributing to the resulting medical condition.

(6) A cardiovascular, pulmonary, respiratory, or other disease, or cerebrovascular accident or myocardial infarction suffered by a worker is an injury only if the accident is the dominant factor in causing the resulting medical condition.

(7) The employee shall not be entitled to recover for the aggravation of a preexisting condition, except to the extent that the work-related injury causes increased permanent disability. Any award of compensation shall be reduced by the amount of permanent partial disability determined to be preexisting disease or condition to cause or prolong disability or need for treatment, the resultant condition is compensable only to the extent that the compensable injury is and remains the dominant cause of the need for treatment.

(8) The terms "injury" and "personal injuries" shall mean violence to the physical structure of the body and to the personal property which is used to make up the physical structure of the body, such as artificial dentures, artificial limbs, glass eyes, eyeglasses, and other prostheses which are placed in or on the body to replace the physical structure and such disease or infection as naturally results therefrom. These terms shall in no case except as specifically provided in this chapter be construed to include occupational disease in any form, nor shall they be construed to include any contagious or infectious disease contracted during the course of the employment, nor shall they

include death due to natural causes occurring while the worker is at work.

[4.**]** (9) "Death" when mentioned as a basis for the right to compensation means only death resulting from such violence and its resultant effects occurring within three hundred weeks after the accident; except that in cases of occupational disease, the limitation of three hundred weeks shall not be applicable.

[5.**]** 4. Without otherwise affecting either the meaning or interpretation of the abridged clause, "personal injuries arising out of and in the course of such employment", it is hereby declared not to cover workers except while engaged in or about the premises where their duties are being performed, or where their services require their presence as a part of such service. Injuries and accidents sustained in company owned or subsidized automobiles in accidents that occur while traveling to or from work are not compensable. The "extension of premises" doctrine is overruled to the extent it extends liability for accidents that occur on property not owned or controlled by an employer.

[6.**]** 5. A person who is employed by the same employer for more than five and one-half consecutive work days shall for the purpose of this chapter be considered an "employee".

[7.**]** 6. The term "total disability" as used in this chapter shall mean inability to return to any employment and not merely mean inability to return to the employment in which the employee was engaged at the time of the accident.

[8.**]** 7. As used in this chapter and all acts amendatory thereof, the term "commission" shall hereafter be construed as meaning and referring exclusively to the labor and industrial relations commission of Missouri, and the term "director" shall hereafter be construed as meaning the director of the department of insurance of the state of Missouri or such agency of government as shall exercise the powers and duties now conferred and imposed upon the department of insurance of the state of Missouri.

[9.**]** 8. The term "division" as used in this chapter means the division of workers' compensation of the department of labor and industrial relations of the state of Missouri.

[10.**]** 9. For the purposes of this chapter, the term "minor" means a person who has not attained the age of eighteen years; except that, for the purpose of computing the compensation provided for in this chapter, the provisions of section 287.250 shall control.

287.067. 1. In this chapter the term "occupational disease" is hereby defined to mean, unless a different meaning is clearly indicated by the context, an identifiable disease arising with or without human fault out of and in the course of the employment. Ordinary diseases of life to which the general public is exposed outside of the employment shall not be compensable, except where the diseases follow as an incident of an occupational disease as defined in this section. The disease

need not to have been foreseen or expected but after its contraction it must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a rational consequence.

2. An occupational disease is compensable only if **[**it is clearly work related and meets the requirements of an injury which is compensable as provided in subsections 2 and 3 of section 287.020. An occupational disease is not compensable merely because work was a triggering or precipitating factor**]** the occupational exposure was the dominant factor in causing the resulting medical condition. Ordinary, gradual deterioration or progressive degeneration of the body caused by aging shall not be compensable. "Dominant factor" as used in this section shall mean the occupational exposure is the prevailing factor in relation to any other factors contributing to the resulting medical condition.

3. Missouri does not apply the positional risk analysis nor follow the positional risk doctrine. An occupational disease injury shall be deemed to rise out of and occur in the course of the employment only if all of the following are met:

(a) It is reasonably apparent upon consideration of all the circumstances that the occupational disease is the dominant factor in causing the injury; and

(b) It does not come from a hazard or risk unrelated to the employment to which workers would have been equally exposed

outside of and unrelated to the employment in normal nonemployment life.

[3.**]** 4. "Loss of hearing due to industrial noise" is recognized as an occupational disease for purposes of this chapter and is hereby defined to be a loss of hearing in one or both ears due to prolonged exposure to harmful noise in employment. "Harmful noise" means sound capable of producing occupational deafness.

[4.**]** 5. "Radiation disability" is recognized as an occupational disease for purposes of this chapter and is hereby defined to be that disability due to radioactive properties or substances or to Roentgen rays (X rays) or exposure to ionizing radiation caused by any process involving the use of or direct contact with radium or radioactive properties or substances or the use of or direct exposure to Roentgen rays (X rays) or ionizing radiation.

[5.**]** 6. Disease of the lungs or respiratory tract, hypotension, hypertension, or disease of the heart or cardiovascular system, including carcinoma, may be recognized as occupational diseases for the purposes of this chapter and are defined to be disability due to exposure to smoke, gases, carcinogens, inadequate oxygen, or psychological stress of firefighters of a paid fire department if a direct causal relationship is established.

[6.**]** 7. Any employee who is exposed to and contracts any

contagious or communicable disease arising out of and in the course of his or her employment shall be eligible for benefits under this chapter as an occupational disease.

[7.**]** 8. With regard to occupational disease due to repetitive motion, if the exposure to the repetitive motion which is found to be the cause of the injury is for a period of less than three months and the evidence demonstrates that the exposure to the repetitive motion with a prior employer was the **[**substantial contributing**]** dominant factor **[**to**]** in causing the injury, the prior employer shall be liable for such occupational disease.

287.390. 1. **[**Nothing in this chapter shall be construed as preventing the**]** Parties to claims **[**hereunder from entering**]** under this chapter may enter into voluntary agreements in settlement thereof, but no agreement by an employee or his or her dependents to waive his or her rights under this chapter shall be valid, nor shall any agreement of settlement or compromise of any dispute or claim for compensation under this chapter be valid until approved by an administrative law judge or the commission, nor shall an administrative law judge or the commission approve any settlement which is not in accordance with the rights of the parties as given in this chapter. No such agreement shall be valid unless made after seven days from the date of the injury or death. An administrative law judge, associate administrative law judge, legal advisor, or the labor and industrial relations commission

shall approve a settlement agreement as valid and enforceable as long as the settlement is not the result of undue influence or fraud, the employee understands his or her rights and benefits, and voluntarily agrees to accept the terms of the agreement.

2. A compromise settlement approved by an administrative law judge or the commission during the employee's lifetime shall extinguish and bar all claims for compensation for the employee's death if the settlement compromises a dispute on any question or issue other than the extent of disability or the rate of compensation.

3. Notwithstanding the provisions of section 287.190, an employee shall be afforded the option of receiving a compromise settlement as a one-time lump sum payment. A compromise settlement approved by an administrative law judge or the commission shall indicate the manner of payment chosen by the employee.

4. A minor dependent, by parent or conservator, may compromise disputes and may enter into a compromise settlement agreement, and upon approval by an administrative law judge or the commission the settlement agreement shall have the same force and effect as though the minor had been an adult. The payment of compensation by the employer in accordance with the settlement agreement shall discharge the employer from all further obligation.

287.510. In any case a temporary or partial award of

compensation may be made, and the same may be modified from time to time to meet the needs of the case, and the same may be kept open until a final award can be made, and if the same be not complied with, the amount **[**thereof**]** equal to the value of compensation ordered and unpaid may be doubled in the final award, if the final award shall be in accordance with the temporary or partial award.

287.610. 1. The **[**division**]** governor may with the advice and consent of the senate appoint such number of administrative law judges as it may find necessary, but not exceeding twenty-five in number **[**beginning January 1, 1999, with one additional appointment authorized as of July 1, 2000, and one additional appointment authorized in each succeeding year thereafter until and including the year 2004, for a maximum of thirty authorized administrative law judges**]**. Appropriations for any **[**additional**]** appointment shall be based upon necessity, measured by the requirements and needs of each division office. Administrative law judges shall be duly licensed lawyers under the laws of this state. Administrative law judges shall not practice law or do law business and shall devote their whole time to the duties of their office.

2. Beginning January 1, 2005, the term of office of each administrative law judge shall be four years. Any administrative law judge who is initially appointed after January 1, 2005, may be reappointed once not to exceed an eight-year term of service.

The director of the division of workers' compensation shall publish and maintain on the division’s web site the appointment dates and the initial dates of services for all administrative law judges. As of January 1, 2005, the ten administrative law judges most senior in service shall be eligible to serve one term of four years expiring on December 31, 2008, the subsequent ten administrative law judges most senior in service may serve one and a half terms of four years expiring on December 31, 2010, and the remaining administrative law judges in office on January 1, 2004, shall have two terms of four years expiring on December 31, 2012. Any administrative law judge appointed by the governor to fill a vacancy occurring prior to the expiration of the term for which the member’s predecessor was appointed shall be appointed with the advice and consent of the senate for the remainder of such term. Any member appointed while the general assembly is not in session shall appear for confirmation before the state senate within thirty days after the senate next convenes for regular session or such appointment is rendered invalid. A member shall not serve beyond the expiration of his or her term unless the qualifications advisory committee fails to submit a recommendation to the governor before the expiration of the term. Administrative law judges shall be ineligible for reappointment after eight years of service.

3. Any administrative law judge may be discharged or removed only by the governor pursuant to an evaluation and

recommendation by the administrative law judge [review] qualifications advisory committee, hereinafter referred to as "the committee", of the judge's conduct, performance and productivity as outlined in subsection 5 of this section.

[2. The division shall require and perform annual evaluations of an administrative law judge, associate administrative law judge and legal advisor's conduct, performance and productivity based upon written standards established by rule. The division, by rule, shall establish the written standards on or before January 1, 1999.

(1) After an evaluation by the division, any administrative law judge, associate administrative law judge or legal advisor who has received an unsatisfactory evaluation in any of the three categories of conduct, performance or productivity, may appeal the evaluation to the committee.

(2) The division director shall refer an unsatisfactory evaluation of any administrative law judge, associate administrative law judge or legal advisor to the committee.

(3)] 4. When a written, signed complaint is made against an administrative law judge, associate administrative law judge or legal advisor, it shall be referred to the director of the division for a determination of merit. When the director finds the complaint has merit, it shall be referred to the committee for investigation and review.

[3. The administrative law judge review committee shall be

composed of one administrative law judge, who shall act as a peer judge on the committee and shall be domiciled in a division office other than that of the judge being reviewed, one employee representative and one employer representative, neither of whom shall have any direct or indirect employment or financial connection with a workers' compensation insurance company, claims adjustment company, health care provider nor be a practicing workers' compensation attorney. The employee representative and employer representative shall have a working knowledge of workers' compensation. The employee and employer representative shall serve for four-year staggered terms and they shall be appointed by the governor. The initial employee representative shall be appointed for a two-year term. The administrative law judge who acts as a peer judge shall be appointed by the chairman of the labor and industrial relations commission and shall not serve on any two consecutive reviews conducted by the committee. Chairmanship of the committee shall rotate between the employee representative and the employer representative every other year.**]** The committee shall determine within thirty days whether an investigation shall be conducted for a referral made under this section. The committee shall make a final referral to the governor within two hundred seventy days of the receipt of a referral or appeal.

5. (1) The governor shall appoint by and with the advice and consent of the senate a six member qualifications advisory

committee. The committee shall consist of persons who have experience in the area of workers' compensation. Employer interests and employee interests shall be equally represented on the committee. No committee member shall have any direct or indirect employment or financial connection with a workers' compensation insurance company, claims adjustment company, or health care provider or be a practicing workers' compensation attorney. Annually, a sitting administrative law judge may participate as a nonvoting member and may act as a peer judge. This nonvoting administrative law judge shall be appointed by the chairman of the labor and industrial relations commission and shall not serve on any two consecutive annual reviews conducted by the committee.

(2) Members shall be appointed for terms of four years except that of the members first appointed, two shall be appointed for terms of two years, two shall be appointed for terms of three years, and two shall be appointed for terms of four years. Of the two members appointed for the two-year, three-year, and four-year terms one member representing employer interests and one member representing employee interests shall be appointed. A member shall not serve beyond the expiration of his or her term. The initial members shall be appointed not later than six months from the effective date of this legislation. Chairmanship of the committee shall rotate between the employee representatives and the employer representatives every other

year.

(3) A quorum shall consist of four members. All business of the committee shall be conducted by not less than a quorum.

(4) Members of the qualifications advisory committee shall serve without compensation but shall be reimbursed for all necessary expenses in connection with the discharge of their official duties as members of the committee. Staffing for the **[**administrative review**]** qualifications advisory committee shall be provided, as needed, by the director of the department of labor and industrial relations and shall be funded from the workers' compensation fund. The committee shall conduct a hearing as part of any review of a referral or appeal made according to subsection 2 of this section.

[4. The committee shall determine within thirty days whether an investigation shall be conducted for a referral made pursuant to subdivision (3) of subsection 2 of this section. The committee shall make a final referral to the governor pursuant to subsection 1 of this section within two hundred seventy days of the receipt of a referral or appeal.

5.**]** (5) The qualifications advisory committee, in consultation with the ten most senior administrative law judges shall develop a written examination. The examination shall be administered to applicants for the positions of workers' compensation administrative law judge and legal advisor in order to determine the applicant's ability and knowledge with regard to

workers' compensation in the following areas:

(a) State workers' compensation statutes;

(b) Fact finding;

(c) The Missouri rules of evidence; and

(d) Human anatomy and physiology.

(6) For any administrative law judge or legal advisor available positions that arise following the effective date of this section, an applicant for the position of workers' compensation administrative law judge or legal advisor shall successfully complete the examination provided for under subdivision (5) of this subsection, shall provide documentation of at least five years experience as an attorney in the field of workers' compensation, and shall appear in person to be interviewed by the qualifications advisory committee for the positions of workers' compensation administrative law judge or legal advisor. To meet the requirement of five years legal experience as an attorney in the field of workers' compensation an applicant shall document to the qualifications advisory committee that during a period of time totaling five years the applicant met one of the following criteria:

(a) A significant portion of the applicant's personal practice was active workers' compensation trial practice representing claimants or employers;

(b) A significant portion of the applicant's personal practice was active workers' compensation appellate practice

representing claimants or employers;

(c) Service as a member of the labor and industrial relations commission.

(7) The qualifications advisory committee after completing personal interviews of the eligible applicants shall determine which of the applicants are considered qualified for the positions of workers' compensation administrative law judge or legal advisor. A person serving as an administrative law judge or legal advisor prior to the effective date of this section shall be considered qualified for the remainder of his or her terms of service. The personal interviews shall be used to determine the applicant's suitability for the position, especially with regard to his or her objectivity.

(8) The governor shall appoint only an applicant determined to be qualified by the qualifications advisory committee as a workers' compensation administrative law judge or legal advisor for each available position under this section.

(9) The division of workers' compensation may develop pamphlets to assist those persons who desire to take the examination for workers' compensation administrative law judge or legal advisor.

(10) The qualifications advisory committee shall evaluate the performance of each workers' compensation administrative law judge at least once every two years. The evaluation shall be based upon at least the following criteria:

(a) Rate of affirmance by the labor and industrial relations commission and the subsequent appellate courts of the workers' compensation administrative law judge’s opinions and orders;

(b) Productivity including reasonable time deadlines for disposing of cases;

(c) Manner in conducting hearings;

(d) Knowledge of rules of evidence as demonstrated by transcripts of the hearings conducted by the workers' compensation administrative law judge;

(e) Knowledge of the law;

(f) Evidence of any demonstrable bias against particular defendants, claimants, or attorneys;

(g) Commitment to continuing professional education training.

Written surveys or comments of all interested parties. Information obtained under this subdivision shall be exempt from public disclosure under the Missouri sunshine act.

(11) Upon completing an evaluation under this section the qualifications advisory committee shall submit a written report including any supporting documentation to the governor regarding that evaluation which may include recommendations with regard to one or more of the following:

(a) Retention;

(b) Suspension;

(c) Removal;

(d) Additional training or education.

The governor shall respond in writing to the committee regarding the action taken in response to the report of the committee.

6. The administrative law judges appointed by the division shall only have jurisdiction to hear and determine claims upon original hearing and shall have no jurisdiction upon any review hearing, either in the way of an appeal from an original hearing or by way of reopening any prior award, except to correct a clerical error in an award or settlement if the correction is made by the administrative law judge within twenty days of the original award or settlement. The labor and industrial relations commission may remand any decision of an administrative law judge for a more complete finding of facts. The commission may also correct a clerical error in awards or settlements within thirty days of its final award. With respect to original hearings, the administrative law judges shall have such jurisdiction and powers as are vested in the division of workers' compensation under other sections of this chapter, and wherever in this chapter the word "commission", "commissioners" or "division" is used in respect to any original hearing, those terms shall mean the administrative law judges appointed under this section. When a hearing is necessary upon any claim, the division shall assign an

administrative law judge to such hearing. Any administrative law judge shall have power to approve contracts of settlement, as provided by section 287.390, between the parties to any compensation claim or dispute under this chapter pending before the division of workers' compensation. Any award by an administrative law judge upon an original hearing shall have the same force and effect, shall be enforceable in the same manner as provided elsewhere in this chapter for awards by the labor and industrial relations commission, and shall be subject to review as provided by section 287.480.

[6.**]** 7. Any of the administrative law judges employed pursuant to this section may be assigned on a temporary basis to the branch offices as necessary in order to ensure the proper administration of this chapter.

[7.**]** 8. Each administrative law judge shall personally perform the duties of the office during the hours generally worked by officers and employees of the executive departments of the state.

9. All administrative law judges and legal advisors shall be required to participate in, on a continuing basis, specific training that shall pertain to those elements of knowledge and procedure necessary for the efficient and competent performance of the administrative law judges' and legal advisors' required duties and responsibilities. Such training requirements shall be established by the division **[**subject to appropriations**]** and shall

include training in medical determinations and records, mediation and legal issues pertaining to workers' compensation adjudication. Such training may be credited toward any continuing legal education requirements. Administrative law judges and legal advisors as a condition of continued employment shall attend these courses at their own expense under a schedule established by the chief administrative law judge in charge. Applicants for the position of workers' compensation administrative law judge may also be required to attend these courses.

[8.**]** 10. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

11. No administrative law judge shall establish, maintain, or contribute to a committee that is regulated by campaign finance disclosure law in chapter 130, RSMo.

287.615. 1. The division may appoint or employ such persons as may be necessary to the proper administration of this chapter. The governor shall appoint by and with the advice and consent of the senate administrative law judges under the guidelines set forth in section 287.610. All salaries to clerical employees shall be fixed by the division and approved by the labor and industrial relations commission. The annual salary of each legal advisor, administrative law judge, administrative

law judge in charge, and chief legal advisor shall be as follows:

(1) For each legal advisor, compensation at eighty percent of the rate at which an associate division circuit judge is compensated;

(2) For each chief legal advisor, compensation at the same rate as a legal advisor plus two thousand dollars;

(3) For each administrative law judge, compensation at ninety percent of the rate at which an associate division circuit judge is compensated;

(4) For each administrative law judge in charge, compensation at the same rate as an administrative law judge plus five thousand dollars.

2. The salary of the director of the division of workers' compensation shall be set by the director of the department of labor and industrial relations, but shall not be less than the salary plus two thousand dollars of an administrative law judge in charge. The appointees in each classification shall be selected as nearly as practicable in equal numbers from each of the two political parties casting the highest and the next highest number of votes for governor in the last preceding state election.

287.800. All of the provisions of this chapter shall be **[**liberally**]** <u>impartially</u> construed with a view to the public welfare**[**, and a substantial compliance therewith shall be sufficient to give effect to rules, regulations, requirements,

awards, orders or decisions of the division and the commission, and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto.**]** The labor and industrial relations commission and all officials within the division of workers' compensation shall apply an impartial standard of review when weighing evidence and resolving factual conflicts.

287.803. 1. An employee may elect to reject the provisions of this chapter based on the fact that such employee is a member of a religious sect that is adherent to established tenets or teaching opposed to the acceptance of benefits by its members from any public or private insurance which makes payments toward the costs of or provides services for medical bills including benefits of any insurance system established by the Federal Social Security Act, 42 U.S.C. 301 et seq. The employee shall submit a written waiver of all benefits under this chapter and an affidavit that he or she is a member of said religious sect for at least eighteen years attesting to the rejection of the benefits of public or private insurance.

2. The waiver and affidavit required by subsection 1 of this section shall be made upon a form to be provided by the division of workers’ compensation.

3. An exception granted in regards to a specific employee shall continue to be valid until such employee rescinds the prior rejection of coverage or the employee or sect ceases to meet the

requirements of subsection 1 of this section.

4. Any rescission shall be prospective in nature and shall entitle the employee only to such benefits that accrue on or after the date the rescission form is received by the insurance company.

287.805. All fees of attorneys under this chapter shall be subject to the approval of an administrative law judge under the statutes and administrative regulations.

(1) In an original claim, attorney's fees for services under this chapter on behalf of an employee shall be subject to the following maximum limits:

(a) Twenty percent of the first twenty-five thousand dollars of the award, fifteen percent of the next ten thousand dollars, and five percent of the remainder of the award not to exceed a maximum fee of twelve thousand dollars. This fee shall be paid by the employee from the proceeds of the award or settlement

(b) Attorney-client employment contracts entered into and signed after August 28, 2004, shall be subject to the conditions of paragraph (a) of this subdivision.

(2) In approving an allowance of attorney's fees, the administrative law judge shall consider the extent, complexity, and quality of services rendered. An attorney's fee may be denied or reduced upon proof of solicitation by the attorney. However, this provision shall not be construed to preclude

advertising in conformity with standards prescribed by the Missouri supreme court.

(3) No attorney's fee in any case involving benefits under this chapter shall be paid until the fee is approved by the administrative law judge, and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. The motion for approval of an attorney's fee shall be submitted within fifteen working days following finality of the claim. The attorney's fee shall be paid in one of the following ways:

(a) The employee may pay the attorney's fee out of his or her personal funds or from the proceeds of a lump-sum settlement; or

(b) The administrative law judge upon request of the employee may order the payment of the attorney's fee in a lump sum directly to the attorney of record and deduct the attorney's fee from the weekly benefits payable to the employee in equal installments over the duration of the award or until the attorney's fee has been paid commuting sufficient sums to pay the fee.

(4) At the commencement of the attorney-client relationship, the attorney shall explain to the employee the methods by which this section provides for the payment of the attorney's fee, and the employee shall select the method in which the employee's attorney's fee is to be paid. The employee's

selection and an affirmative statement that the employee fully understands the method to be used shall be submitted by the employee's attorney on a notarized form signed by the employee, at the time the motion for approval of the attorney's fee is submitted. The director of the division of workers' compensation shall develop the format and content of the form to be used under this section. The form to be used shall list on its face all options permitted in this section for the payment of an attorney's fees and contain an explanation in nontechnical language of each method.

(5) After reasonable notice and hearing before the labor and industrial relations commission any attorney found to be in violation of any provision of this section shall be required to make restitution of any excess fees charged plus interest at a reasonable rate as determined by the commission.

287.957. The experience rating plan shall contain reasonable eligibility standards, provide adequate incentives for loss prevention, and shall provide for sufficient premium differentials so as to encourage safety. The uniform experience rating plan shall be the exclusive means of providing prospective premium adjustment based upon measurement of the loss-producing characteristics of an individual insured. An insurer may submit a rating plan or plans providing for retrospective premium adjustments based upon an insured's past experience. Such system shall provide for retrospective adjustment of an experience

modification and premiums paid pursuant to such experience modification where a prior reserved claim produced an experience modification that varied by greater than fifty percent from the experience modification that would have been established based on the settlement amount of that claim. The rating plan shall prohibit an adjustment to the experience modification of an employer if the total medical cost does not exceed one thousand five hundred dollars and the employer pays all of the total medical costs and there is no lost time from the employment and no claim is filed. As used in this section, "no lost time" shall mean no greater than one lost day of a regularly scheduled work day.